

REMARKS/ARGUMENTS

This paper is submitted in response to the Final Office Action dated May 20, 2008. Reconsideration is respectfully requested in view of the amendments and arguments.

Claim Rejections – 35 USC § 112

The Examiner rejected claims 3, 4 and 11 as failing to comply with the written description requirement. Similarly, the Examiner rejected claims 3, 4, 6, 7 and 9-11 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 3, 4, 6 and 9 and has canceled claims 7. For these reasons the rejection should be withdrawn.

Claim rejections under 35 USC § 102

The Examiner rejected Claims 1, 4, 6-8 and 10-12 as being clearly anticipated by Jane et al (615), Fig. 4; col.4, lines 11-30. The Examiner rejected claims 1, 3, 4, and 6-12 as being clearly anticipated by Jane et al (967), Figs. 8-10; col.4, lines 59-67; col.5, lines 1-30.

Currently, only claims 1, 3, 4, 6, 9 and 10 remain in the application.

The Jane 615 rejection

Applicant submits that claims 1, 4, 6 and 10 are not anticipated by Jane 615. The Examiner relies on Fig. 4, Col. 4. lines 11-30, which describes the water flow in Jane's apparatus, as it is being subjected to an airstream through the upright housing, where airflow accelerates the evaporation of moisture and causes the humidification desired of the humidifier. Applicant, however, would like to draw the Examiners attention to Col. 3, lines 47 et seq.:

As shown in FIG. 4, a blower assembly 41 is mounted below the horizontal top surface 40 and within the housing 18. Included in the blower assembly 41 is a motor 42, a horizontally oriented cylindrical blower wheel 43 mounted on a motor shaft 44, and a blower housing 45. Defined by the blower housing 45 are an air intake opening 46 and an exhaust opening 47 aligned with and adjacent to the exhaust openings 39 of the upright housing 18. When a control switch 51 mounted on the horizontal top surface 25 is closed, the motor 42 is energized to produce rotation of the shaft 44. Resultant spinning of the blower wheel 43 draws air into the housing 18 through the intake openings 38, through the interior of the housing 18, through the intake opening 46 of the blower housing 45, and then out of the humidifier 11 through the air exhaust opening 47 of the

blower housing 45 and the exhaust openings 39 in the horizontal top surface 40.

Nowhere does Jane 615 anticipate an arrangement as claimed by applicant. The Examiner appears to rely on Jane 615 disclosing the concept of a manifold which applicant claims in combination with other elements. The Examiner points to element 45 which he claims would constitute a manifold like applicant's manifold 200. Manifold 200 is not a blower housing, it is merely situated in one of applicant's embodiment near the blower, but as is shown in the second embodiment, there is no need to be positioned near the blower. The manifold in applicant's invention is "a separate manifold disposed above the wick and comprising a plurality of vents extending to the atmosphere and includes at least one internal baffle adapted to direct said airflow in a desired direction". Since Jane 615 provides a mechanically elaborate structure of a water-filled humidifier, the interior housing provides for a blower which is in a housing having exhaust opening, whereas the air enters through an axial opening into the blower housing.

Anticipation requires identity of invention. See MPEP 2131. See also *Glaverbel Societe Anonyme v. Northlake Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). There must be no differences between what is claimed and what is disclosed in the prior art reference. *In re Kalm*, 154 USPQ 10, 12 (CCPA 1967.) Moreover, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Ex parte Levy*, 17 USPQ2d 1461, 1462 (BPAI 1990).

Jane 615 neither shows a wick which axially extending from a reservoir (Jane's reservoir is depicted by tank 14 which is arranged to the side of 82, the "wick". Further, Jane 615 does not provide a blower which is axially aligned with the wick. The axes of the blower is perpendicular to the "wick" 82. But most importantly, nowhere does Jane show a separate manifold disposed above the wick and comprising a plurality of vents extending to the atmosphere and which includes at least one internal baffle adapted to direct said airflow in a desired direction.

Thus, for those reasons, Jane 615 does not anticipate claim 1 or any claims dependent on

claim 1.

The Jane 967 rejection

Similarly, Jane 967 does not anticipate any of applicant's claims , as amended . Jane 967 neither shows a wick ("30") which axially extending from a reservoir (Jane's reservoir is depicted by boiler cavity 54 which is arranged to the side of 30, the "wick". Further, Jane 967 does not provide a blower which is axially aligned with the wick. The axes of the blower is perpendicular to the "wick" 82. But most importantly, nowhere does Jane show a separate manifold disposed above the wick and comprising a plurality of vents extending to the atmosphere and which includes at least one internal baffle adapted to direct said airflow in a desired direction. The fact that Jane's housing provides discharge openings does not make the housing be a manifold.

Thus, for those reasons, Jane 967 does not anticipate any of the remaining claims in applicant's invention. Applicant submits that the anticipatory rejections should be removed.

Applicant submits that the claims, as amended are now patentable.

CONDITIONAL PETITION FOR EXTENSION OF TIME


If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,

NORRIS McLAUGHLIN & MARCUS, P.A.

By 
Christa Hildebrand
Reg. No. 34,953
875 Third Avenue - 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844
Facsimile: (212)808-0844